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3 UNITED STATES DISTRICT COURT  
4 EASTERN DISTRICT OF WASHINGTON

5 NEIL HENRICKSEN AND MAURITA  
6 HENRICKSEN,

7 Plaintiffs,

8  
9 vs.

10 CONOCO PHILLIPS COMPANY,

11 Defendants.  
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NO. CV-07 -224-JLQ

**ORDER ON DEFENDANT'S  
MOTION FOR EVIDENTIARY  
DAUBERT HEARING**

14 **BEFORE THE COURT** is Defendant's Motion for Evidentiary Daubert Hearing  
15 (Ct. Rec. 64). The hearing on 10 of Defendant's motions, which includes 5 *Daubert*  
16 motions relating to five of Plaintiffs' witnesses (Gardner, Kaltoven, Sawyer, Caton and  
17 Infante), is presently scheduled for hearing on July 1, 2008 at 9:00 a.m. in Spokane,  
18 Washington.

19 In response to Defendant's motion for evidentiary hearing, Plaintiffs assert it would  
20 be their preference not to hold an evidentiary hearing to the extent possible, because  
21 presenting their witnesses would demand significant time and expense, and would be  
22 burdensome for some witnesses.

23 It is this court's obligation to act as a "gatekeeper" to admission of expert scientific  
24 testimony under Rule 702. *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 597, 113  
25 S.Ct. 2786, 125 L.Ed.2d 469 (1993). In performing its "gatekeeper" role, the court is not  
26 obligated to conduct a separate evidentiary hearing on the admissibility of the proffered  
27 expert testimony. *See United States v. Alatorre*, 222 F.3d 1098, 1102 (9th Cir. 2000).  
28 Having now received Plaintiffs' responses and Defendant's reply memoranda, it is the



1 court's belief that the court has an adequate record to rule on all ten motions on the  
2 pleadings alone. However, the purpose of holding an evidentiary hearing is to assist the  
3 court to conduct an adequate *Daubert* analysis. The Ninth Circuit encourages district  
4 courts to hold such hearings in part to allow plaintiffs an adequate opportunity to  
5 question the experts the Defendant relies upon in the *Daubert* motions. *In re Hanford*  
6 *Nuclear Reservation Litigation*, Nuclear Reg. Rep. P 20,621, 292 F.3d 1124, 1138-39  
7 (9th Cir. 2002).

8 Accordingly, on July 1, 2008, the court will conduct an evidentiary hearing, to the  
9 extent the parties elect to present witness testimony. It shall be up to the parties to decide  
10 whether to offer testimony and if so, which witnesses to present. The court is not at this  
11 time mandating that any particular witness appear. The court will then hear argument on  
12 all ten pending defense motions.

13 **IT IS HEREBY ORDERED:**

14 Defendant's Motion for Evidentiary Hearing (Ct. Rec. 64) is **GRANTED**.

15 The Clerk is hereby directed to enter this Order and furnish copies to counsel.

16 **DATED** this 26th day of June, 2008.

17 s/ Justin L. Quackenbush  
18 JUSTIN L. QUACKENBUSH  
19 SENIOR UNITED STATES DISTRICT JUDGE  
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